

**United States Department of Labor
Employees' Compensation Appeals Board**

R.H., Appellant

and

**DEPARTMENT OF THE NAVY, NORFOLK
NAVAL SHIPYARD, Portsmouth, VA, Employer**

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**Docket No. 08-1917
Issued: March 9, 2009**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 30, 2008 appellant filed an appeal from a May 16, 2008 decision of the Office of Workers' Compensation Programs that suspended his compensation benefits. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over this case.

ISSUE

The issue is whether the Office properly suspended appellant's wage-loss compensation effective May 11, 2008.

FACTUAL HISTORY

On March 14, 1990 appellant, then a 62-year-old electrician, sustained an employment-related cervical strain, left wrist strain and secondary cephalalgia when he was pinned to a wall while pulling a cable. He stopped work on March 16, 1990 and did not return. Appellant retired on disability on February 21, 1991 and elected to receive Office compensation benefits, retroactive to December 13, 1990.

On March 5, 2008 the Office forwarded appellant's income and employment disclosures form (EN1032). The accompanying instructions advised him to completely answer all questions and return the form within 30 days of the date of the letter. Appellant was advised that if he failed to comply, his benefits would be suspended in accordance with 20 C.F.R. § 10.528 of Office regulations.¹ By letter dated April 10, 2008, the Office informed appellant that it had not received the required form and again advised him that his wage-loss compensation would be suspended if he failed to provide the requested information.

By decision dated May 16, 2008, the Office suspended appellant's wage-loss compensation, effective May 11, 2008, because he failed to submit the requested EN1032 form. Appellant was advised that his compensation benefits would be restored retroactively to the date of suspension when he submitted the requested information.

LEGAL PRECEDENT

Section 10.528 of Office regulations provides that each employee who is receiving compensation benefits shall complete an affidavit as to any work or activity indicating an ability to work, which the employee has performed for the prior 15 months and that if the employee who is required to file such a report fails to do so within 30 days of the date of the request, his or her right to compensation for wage loss under sections 8105 or 8106 of the Federal Employees' Compensation Act² is suspended until the Office receives the requested report. At that time, the Office will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.³

ANALYSIS

By letter dated March 5, 2008, the Office forwarded appellant an EN1032 form and advised him that he had 30 days in which to submit the completed form or his wage-loss compensation could be suspended. On April 10, 2008 appellant was again provided this information. The letters were mailed to his address of record.⁴ The Board finds that by its March 5 and April 10, 2008 correspondence, the Office properly advised appellant of the consequences for failing to timely submit the requested EN1032 form that had been provided by the Office. As appellant did not forward the required information or respond in any way, the Office properly suspended his wage-loss compensation effective May 11, 2008.⁵

¹ Appellant was also asked to submit an authorization form to obtain earnings information from the Social Security Administration.

² 5 U.S.C. §§ 8101-8193.

³ 20 C.F.R. § 10.528; *see Lucille A. Pettaway*, 55 ECAB 228 (2004).

⁴ Appellant had changed to this address in January 2002 and used this address when filing his appeal with the Board.

⁵ *Supra* note 3.

CONCLUSION

The Board finds that the Office properly suspended appellant's wage-loss compensation effective May 11, 2008.

ORDER

IT IS HEREBY ORDERED THAT the May 16, 2008 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: March 9, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board